

THE HON'BLE MRS JUSTICE T.MEENA KUMARI
&
THE HON'BLE MR JUSTICE P. LAKSHMANA REDDY

WRIT APPEAL NO : 487 of 2004

-

JUDGMENT: (Per the Honourable Smt Justice T. Meena Kumari)

-

-

This writ appeal is preferred by the appellant against the order, dated 4.9.2003 in W.P.No.18660 of 2003, under which the learned Single Judge of this Court dismissed the writ petition.

The appellant herein is the writ petitioner. Originally, the writ petitioner filed the above writ petition seeking a direction, in the nature of writ of Mandamus, declaring the proceedings of the 2nd respondent, dated 7.12.2000 insofar as against to the petitioner, as illegal.

It is the case of the writ petitioner that he was removed from service by the 3rd respondent-Depot Manager, on 5.11.1999, on the allegation of misconduct and thereupon, the petitioner preferred departmental appeal as per the regulations and the said appeal was rejected. Again, the petitioner preferred review petition before the 2nd respondent-Regional Manager. The 2nd respondent, taking past conduct of the petitioner into consideration, ordered his reinstatement, but erroneously imposed punishment of reduction of his pay in two incremental stages for a period of two years with cumulative effect and further denied the continuity of service from the date of his suspension till reinstatement. Therefore, he filed the above writ petition.

The learned Single Judge having observed that the review authority liberally considered the case of the writ petitioner and granted relief of reinstatement by reducing two incremental stages in his scale of pay with cumulative effect only, taking his past conduct into consideration, and the order of the review authority does not require any interference, dismissed the writ petition. Aggrieved by the same, the

petitioner preferred the present appeal.

The learned Counsel for the appellant contends that the reduction of two incremental stages with cumulative effect is contrary to APSRTC, CC & A Regulations and therefore, the order of the learned Single Judge in dismissing his claim is liable to be set aside.

Perused the order under appeal and the material available on record.

Perusal of the order under appeal clearly goes to show that the review authority, taking the previous conduct of the appellant into consideration ordered his reinstatement, but imposed punishment of reduction of two incremental stages. While imposing the punishment, what all that has to be considered, is gravity of the charge but not by taking into consideration of any other aspects. As a matter of fact, in the instant case, the charge leveled against the delinquent is with regard to the behaviour with his superior officer i.e., Controller. During the course of entrustment of duties, due to sudden provocation or commotion, the incident might have happened. But that cannot be construed that there was any personal animosity or any motive at that moment and that reaction cannot be termed as a grave one. In this background of the matter, and considering the gravity of the charge, we are of the view that though the punishment imposed by the review authority, is just and reasonable, but it does not commensurate with the gravity of the charge. Therefore, we deem it proper to modify the order of the review authority-2nd respondent to the extent that on reinstatement the petitioner's basic pay shall be reduced by two incremental stages for a period of two years **without** cumulative effect. Accordingly, the order of the learned Single Judge is modified.

Subject to the above modification, the writ appeal is disposed of. No order as to costs.

Justice T. Meena Kumari

Justice P. Lakshmana Reddy

Dated: 26.07.2005

Nn.